UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/7
21 February 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 8 (a) of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Written statement submitted by the Friends World Committee for Consultation (Quakers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1295 (XLIV).

[30 January 1997]

Torture and ill-treatment of recruits in government armed forces

1. For many years, Friends World Committee for Consultation (Quakers), which represents Quakers from around the world, has worked on the issues of conscientious objection to military service and the recruitment of children into the armed forces. During the course of this work we have become increasingly aware of and concerned about the inhuman and degrading way in which many recruits are treated.

2. The use of torture and ill-treatment by the armed forces on others has been the subject of attention by human rights bodies. The corresponding use of torture, inhuman and degrading treatment and punishment within the armed forces themselves is overdue for attention.

3. The problems may be divided into four categories: abusive recruitment procedures; initiation rites; general harassment; and official practices. However, it is not always possible to tell where one category ends and another begins.

4. Recruitment procedures: In some countries recruitment itself is forcibly being conducted by means of abduction, threats or press-ganging. The military forces conduct systematic sweeps of poor urban and rural areas collecting military age (and under-age) youths and forcing them into trucks to be taken away. The victims of such recruitment are often beaten and insulted - treatment which frequently continues during the journey to the barracks - and communication with families prohibited both at the time of recruitment and for several weeks afterwards.

5. Initiation: A variety of brutal and humiliating rituals are practised on new recruits by military forces the world over. The degree of ill-treatment varies from minor annoyances to practices resulting in death or permanent physical or mental damage. Examples include: being forced to hand over personal belongings; being expected or required to clean toilets and rooms shared with older soldiers; others kicking over a rubbish bin so that the cleaning has to be repeated; deprivation of food for varying lengths of time; being asked to pay for privileges (such as being allowed out in the evening) or subjected to violent beatings before being allowed them; having the firmness of the stomach checked by repeated jumping onto it; being forced to imitate an aeroplane by hanging between two beds; being required to masturbate in front of room-mates; being sexually assaulted, including rape; mental abuse, including humiliation and denigration; the application of caustic materials to the anus and genitals; being covered with a liquid mixture of human excrement, saliva and dead rodents; being forced to drink blood, eat raw meat, and even ritual cannibalism. The sexual violence cited is inflicted on men. Where women are also in the armed forces the problems of rape, sexual assault and sexual harassment are compounded.

6. General harassment: Some of the same kinds of treatment may continue beyond the initiation stage and form part of a continuing pattern of harassment. Such behaviour often takes place at night when there is not adequate control by superiors, and is complicated by the fact that older recruits may be of higher rank, making new recruits reluctant to challenge such "orders", and indeed encouraging them to think that this is a legitimate part of military service. In fact, harassment and intimidation may be seen as an alternative way to establish discipline among the newly arrived recruits. Moreover, there is a tendency for the cycle to be self-perpetuating since conscripts who are badly treated tend to behave in the same way to the next intake.

7. Official policies: As an institution the armed forces clearly need to ensure physical fitness and military discipline within its ranks. There is a need to examine the limits of what is acceptable and compatible with human rights standards. In any case, it is hard to see what possible military purpose is served by procedures which cause deaths (directly or self-inflicted), permanent physical disablement or mental damage so severe as to require institutionalization, whether under the guise of "toughening up" or as punishment. Nevertheless, many instances of just such results have been

brought to our attention from different countries and regions of the world. Such activities fall into three categories: exhausting physical activities creating unbearable muscular strain; blows and physical punishments such as punching, hitting with various instruments, kicking and burning; and psychological maltreatment such as threats, constant jeering, insults, sleep and food deprivation.

8. That such treatment as outlined above is allowed to happen, or systematically practised, in a State institution raises questions about human rights and governmental responsibility. That in most instances the impunity of these budding torturers is total, makes it imperative for the international community to take action. That human rights provisions apply to members of the armed forces is not open to doubt. As early as 1976, the European Court of Human Rights established the principle of the application of the European Convention on Human Rights to service personnel. 1/ Similarly, the Human Rights Committee has considered the question of ill-treatment of recruits when considering the reports of States parties to the International Covenant on Civil and Political Rights. 2/

9. Friends World Committee for Consultation therefore urges the Commission on Human Rights to request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a thorough study of the treatment of recruits (both conscripts and volunteers) in government armed forces with a view to:

(a) Examining the compatibility of such treatment with international human rights standards;

(b) Considering how the human rights of recruits can be better protected; and

(c) Considering the consequences of torture, inhuman and degrading treatment for the recruits, the subsequent behaviour of the armed forces and of the recruits when they return to civilian life.

Notes

1/ See the case of Engel and Others, Eur. Court H.R., Series A, Vol. 22, Judgement of 8 June 1976.

2/ See for example Human Rights Committee, Comments on the report of the Russian Federation (CCPR/C/79/Add.54), para. 21.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/8
25 February 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 8 of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by the International Commission of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 January 1997]

GE.97-10828 (E)

Draft basic principles and guidelines on the right to reparation for victims of violations of human rights and international humanitarian law

1. The International Commission of Jurists (ICJ), jointly with Redress, a London-based human rights organization, submits this statement in accordance with Economic and Social Council resolution 1996/31 of 25 July 1996, which amends Council resolution 1296 (XLIV) of 23 May 1968, for consideration by the Commission on Human Rights under item 8 of its provisional agenda.

2. The importance of reparation to survivors of torture, disappearances and other violations of human rights and international humanitarian law is attested by health professionals and by survivors themselves. Seeking and obtaining justice, even long after the violation has occurred, is an important part of the rehabilitation process. Its impact goes beyond the individual survivor to include family and community as well.

3. International human rights and international humanitarian law norms oblige States to afford effective remedies and an enforceable right to reparation to victims of violations of human rights and humanitarian law.

4. Although the right to reparation is well established under international law, there is a need to define its content more clearly. International instruments assert the right and customary law recognizes it, but there exists no authoritative detailed interpretation. The declaration by the international community of principles and guidelines on the right to reparation will set standards for implementation in national legal systems and encourage greater consistency and coherence in the application of this right. It will also assist regional or international courts and tribunals in recommending appropriate remedies for violations. Survivors of violations and their representatives will be better able to assert and realize the right to reparation. Measures are needed to improve implementation of the right to reparation. The study by the Special Rapporteur of the Sub-Commission on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (E/CN.4/Sub.2/1993/8) and the discussion of it by the Sub-Commission suggest that there are serious discrepancies in the extent of implementation of this right.

5. The draft basic principles and guidelines on the right to reparation correctly identify a range of elements which make up reparation. Reparation is often equated with financial compensation alone. This misconception gives States the opportunity to claim lack of available funds, particularly when the number of potential claimants is large. It can also give survivors the feeling they are being "bought off". There are other things survivors of violations need. Medical rehabilitation - sometimes involving specialist psychological therapy and counselling, as well as treatment of physical effects - is frequently required. But it is moral satisfaction which is the central component of reparation and the element often seen as most important by survivors. This might take a variety of forms but must include measures taken by the State to investigate the facts, acknowledge the truth and bring perpetrators to justice. Commemorations and other ways of paying tribute to the dead and those who suffered will also be considered important. For some,

the opportunity to tell their story has therapeutic value. The experiences of societies trying to come to terms with the abuses of a prior regime show that justice will not be seen to be done without these elements.

6. Nevertheless money can be important in restoring survivors' way of life. Compensation should cover pain and suffering as well as material damage, restitution of property and other loss and entitlements. Consideration should also be given to payment of punitive damages which will act as a deterrent. Procedures for claiming compensation must be accessible, speedy, enforceable and not subject to statutes of limitation.

7. The international community as a whole has an important role in providing a remedy to individuals and ensuring implementation of the right to reparation at the national level. This role can be fulfilled through inter-State mechanisms, access by individuals to international mechanisms for the protection of human rights and international humanitarian law, and also the exercise by States of universal jurisdiction over alleged perpetrators who are not brought to justice in their own State. In addition, States should not be able to invoke immunities to shield themselves from liability for violations of human rights and international humanitarian law.

8. ICJ and Redress welcome the draft basic principles and guidelines because they provide a much needed definition of the right to reparation and give due recognition to the range of elements which make up this right.

9. ICJ and Redress respectfully request the Commission on Human Rights to circulate the draft to Governments and intergovernmental and non-governmental organizations, asking for their comments and observations. They also request the Commission to ask the former Special Rapporteur, Mr. Theo van Boven, to submit to the Commission at its fifty-fourth session a revised version of the draft principles and guidelines on the right to reparation for victims of violations of human rights and international humanitarian law. In his revised version, Mr. van Boven should take into consideration such comments and observations.